IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.27 OF 2004

The State of Maharashtra .. Petitioner.
Vs.
Shakil Rashid Pathan .. Respondent.

Mrs.M.H.Mhatre A.P.P. for the petitioner.
Mr.Prakash Naik for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 17TH JULY, 2006

P.C.:

. Heard learned A.P.P. for the State and learned counsel for the respondent.

2. This revision application is directed against the order dated 16.6.2003 passed by the Additional Sessions Judge, Pune by which the respondent-accused has been dicharged under section 227 of the Code of Criminal Procedure of the offences punishable under sections 376 and 420 of I.P.C. The respondent-accused was charged of the offences punishable under section 376, 420, 506(1) of I.P.C. That was on the allegation that he had allegedly developed illicit relations with the complainant and it was going on for a period of four years after she was deserted by her husband. At the relevant time she was staying with her mother. According to the complainant, the accused had promised

her to marry. During this period the complainant also allegedly paid Rs.1,20,000/- to the accused since he was in need of money. However, when the accused refused to marry her after keeping physical relations with her for four years, she lodged the FIR. The complainant, a fully matured women working in the hospital as Aaya, had kept relations with the accused willingly and, therefore, the Sessions Court has rightly observed that offence under section 376 of I.P.C. is not made out. I do not find any reason to interfere with that part of the impugned order. However, the order of discharge, insofar as offence punishable under section 420 is concerned, in my opinion, the learned Judge has committed an error in appreciating the allegations made in the complaint against the accused. It appears that the accused had kept the complainant under belief that he would marry her, for a period of four years and during this period he was in need of money. The complainant seems to have had paid Rs.1,20,000/- during this period from time to time. Whether really she paid the amount or not, whether he had promised her to marry or not will all have to be considered during trial. Prima facie the accused seems to have dishonestly induced the complainant and deceive her to pay the aforestated amount. In the circumstances the order discharging the accused of the offence punishable

under section 420 is quashed and set aside. The trial Court shall proceed with the hearing of the case for the offence punishable under section 420 and 506(2) of I.P.C. and decide the same on merits in accordance with law and uninfluenced by the observations made in this order. The revision application is, accordingly, disposed of.

(D.B.Bhosale, J.)